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REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK

In Compliance with 35 § filed in the U.S. District Court		116 you are hereby advised that a court action formia on the following X Patents or			
			i i i i i i i i i i i i i i i i i i i		
DOCKET NO. DATE FILEI CV 09-01531 RS 4/	1	DISTRICT COURT	Inva CA 05112		
PLAINTIFF 4/	7/2009	280 South First Street, Rm 2112, San DEFENDANT	1 Jose, CA 93113		
ELAN MICROELECTRONICS	CORPORATION	APPLE, INC.			
	OF PATENT ADEMARK	HOLDER OF PATENT OR TR	ADEMARK		
1 5,825,354		SEE ATTACHED COMPI	LAINT		
2 7,274,353		······································			
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4					
5					
In the above—entitled case, the following patent(s) have been included: DATE INCLUDED INCLUDED BY Amendment Answer Cross Bill Other Pleading					
	OF PATENT	HOLDER OF PATENT OR TR	ADEMARK		
TRADEMARK NO. OR TR	ADEMARK				
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In the above—entitled case, the following decision has been rendered or judgement issued:					
DECISION/JUDGEMENT					
CLERK (BY) DEPUTY CLERK			DATE		
Richard W. Wieking	(-1/34.4)	Betty Walton	April 8, 2009		

- 11	
1 2 3 4 5 6	Yitai Hu (SBN 248085) (yitai.hu@alston.com) Sean P. DeBruine (SBN 168071) (sean.debruine@alston.com) S.H. Michael Kim (SBN 203491) (michael.kim@alston.com) C. Augustine Rakow (SBN 254585) (augie.rakow@alston.com) ALSTON + BIRD LLP Two Palo Alto Square 3000 El Camino Real, Suite 400 Palo Alto, California 94306 Telephone: 650-838-2000 Facsimile: 650-838-2001
7	Attorneys for Plaintiff ELAN MICROELECTRONICS CORPORATION
9	UNITED STATES DISTRICT COURT
í 10	NORTHERN DISTRICT OF CALIFORNIA
11	SAN FRANCISCO DIVISION
112 113 114 115 116 117 118 119 220	ELAN MICROELECTRONICS CORPORATION, Plaintiff, V. APPLE, INC., Defendant. Plaintiff Elan Microelectronics Corporation ("Elan") hereby complains against defendant Apple,
21	Inc. ("Apple") and alleges as follows:
22	PARTIES
23	Elan is a corporation organized and existing under the laws of Taiwan, R.O.C. with a
24	place of business at No. 12, Innovation 1st Road, Science Based Industrial Park, Hsinchu Taiwan R.O.C
25	2. Elan is the owner of all right and title to United States Patent No. 5,825,352 ("the '352
26	patent) entitled "Multiple Finger Contact Sensing Method for Emulating Mouse Buttons and Mouse
27 28	Operations on a Touch Sensor Pad."
	COMPLAINT 1 Case No.

- 3. Elan is the owner of all right and title to United States Patent No. 7,274,353 ("the '353 patent") entitled "Capacitive Touchpad Integrated With Key and Handwriting Functions."
- 4. Upon information and belief, Defendant Apple is a corporation organized under the laws of the State of California and has its principal place of business at 1 Infinite Loop, Cupertino, CA 95014 and is doing business in this judicial district.

JURISDICTION AND VENUE

- 5. This is a patent infringement action arising under the patent laws of the United States, 35 U.S.C. §1, et seq. This Court has jurisdiction over the subject matter under 28 U.S.C. §§1331 and 1338(a).
- 6. Venue is appropriate in this district under 28 U.S.C. §§1391(b) and 1400(b) because defendant Apple resides in this district, has a regular place of business in this district and has committed acts of patent infringement in this district.

THE DISPUTE

- 7. Elan is a worldwide leader in the research and development of products that enable Smart Human-Machine Interface ("HMI") solutions. Such solutions include Elan's capacitive touchpads and transparent touchpads, such as its Smart-Pad the Magic of MultifingerTM which incorporate Elan's proprietary eFingerTM and eStylusTM technologies. Elan and its predecessors pioneered the use of touchpad gestures involving multiple simultaneous finger touches for input devices, and touchscreens that easily switch between key and handwriting input modes.
- 8. Various multi-finger applications have been implemented in computer laptops, mobile phones and digital media players. The '352 patent is a fundamental patent to the detection of multiple fingers on a touchpad or touch-sensitive input device to enable the detection and use of multi-finger gestures in various applications. The invention of the '352 patent is embodied in Elan's Capacitive Touchpad Multi-Finger Solution.
- 9. Apple designs, markets and sells computer and consumer electronics products including capacitive finger sensing input devices. These include at least the Apple iBook, PowerBook and MacBook portable computers, iPhone "smart" mobile phones and iPod Touch digital media player devices. Each of these devices includes a touch-sensitive input device capable of detecting the

		·		
1	simultaneous presence of two or more fingers or other capacitive objects using the structure and			
2	methods claimed in the '352 patent. Apple has been on notice of its infringement of the '352 patent			
3	since early 2007 and has continued to utilize the '352 patent invention without authorization. In			
4	addition, the Apple iPhone and iPod Touch also permit users to switch the capacitive touchscreen			
5	between keyboard and handwriting modes, and thus fall within the scope of the '353 patent.			
6	FIRST CLAIM			
7		(Infringement - 35 U.S.C. § 271)		
8	10.	Plaintiff repeats and re-alleges Paragraphs 1 through 9 immediately above.		
9	11.	Apple is now and has been directly and/or indirectly infringing the '352 patent by the sale		
10	of at least its	Book, MacBook, iPhone and iPod Touch products in this district and elsewhere in the		
11	United States	·		
12	12.	As a result of Apple's infringement, Apple is liable to Elan for damages pursuant to 35		
13	U.S.C. §284.			
14	13.	Apple's infringement of the '352 patent has caused, and unless preliminarily and		
15	permanently enjoined, will continue to cause Elan irreparable harm.			
16	14.	Apple's infringement of the '352 patent is and has been willful.		
17	15.	As a result of at least Apple's willful infringement this is an exceptional case pursuant to		
18	35 U.S.C. §285.			
19		SECOND CLAIM		
20		(Infringement – 35 U.S.C. §271)		
21	16.	Plaintiff repeats and re-alleges Paragraphs 1 through 15 immediately above.		
22	17.	Apple is now and has been directly and/or indirectly infringing the '353 patent by the sale		
23	of its iPhone and iPod Touch products in this district and elsewhere in the United States.			
24	18.	As a result of Apple's infringement, Apple is liable to Elan for damages pursuant to 35		
25	U.S.C. §284.			
26	19.	Apple's infringement of the '353 patent has caused and, if not enjoined, will continue to		
27	cause Elan irreparable harm.			
28	20.	On information and belief, Apple's infringement of the '353 patent is and has been		
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Case No.

1	willful.					
2	21.	As a result of at least Apple's willful infringement this is an exceptional case pursuant to				
3	35 U.S.C. §2	85.				
4		PRAYER FOR RELIEF				
5	WHEREFORE, Elan prays for judgment:					
6	1.	that Apple infringes, directly and/or indirectly, one or more claims of the '352 patent;				
7	2.	that Apple infringes, directly and/or indirectly, one or more claims of the '353 patent;				
8	3.	that Apple be temporarily and permanently enjoined from any further infringement;				
9	4.	that Apple is liable to Elan for monetary damages, no less than a reasonable royalty;				
10	5.	for enhanced damages up to treble Elan's actual damages;				
11	6.	that this is an exceptional case and therefore that Apple pay Elan's costs, expenses and				
12	attorneys fees incurred in this matter; and					
13	7.	granting such other and further relief as the Court my deem just and appropriate.				
14						
15	Dated: Apri	17, 2009 Respectfully submitted,				
16		ALSTON + BIRD LLP				
17		Pu francis				
18		Sean P. DeBruine				
19		Attorneys for Plaintiff				
20		ELAN MICROELECTRONICS CORPORATION				
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DEMAND FOR JURY TRIAL

Plaintiff Elan Microelectronics Corporation hereby demands a jury trial for all issues so triable.

Dated: April 7, 2009 Respectfully submitted,

ALSTON + BIRD LLP

By: Sem Derzi

Sean P. DeBruine

Attorneys for Plaintiff
ELAN MICROELECTRONICS CORPORATION

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COMPLAINT